

equipment connecting to said outside plant portion and said at least one central office equipment connecting to said outside plant portion through said equipment cable port, and said outside plant portion being proximately located to said inside plant portion;

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cont'd

said inside plant portion of said fiber center distributing frame module further comprising a plurality of inside mounting positions wherein each one of said plurality of inside mounting positions is in a designated state selected from a group of operating states including: equipped, unequipped and spare; and

wherein said connection from said outside plant portion to said inside plant portion is made to any one of said plurality of inside mounting positions which is in said equipped operating state.

REMARKS

With the cancellation of claims 15-32, claims 1-14 remain pending in the above-referenced. Applicant has rewritten claim 1 to better conform the claim to the specification. Amended claim 1 and claims 2-14 are submitted for the Examiner's reconsideration.

The oath or declaration is objected to by the Examiner because it did not state whether the invention is a sole or joint inventor of the invention claimed. In response, attached hereto is a new declaration that overcomes this deficiency.

Claims 1-5, 7, 9-11, 13, and 14 stand rejected under 35 U.S.C. § 102(b) as being anticipated by United States Patent No. 5,402,515 to Vidacovich et al. ("Vidacovich"). In order for a reference to anticipate a claim, "every element of the claimed invention must be identically shown in a single reference." In re Bond, 910 F.2d 831, 832, 15 USPQ2d 1566, 1567 (Fed. Cir. 1990) (emphasis added). Applicant submits that Vidacovich does not anticipate claim 1 because Vidacovich does not show every element in the claim. In particular, Vidacovich does not teach "a fiber center distributing frame which forms a cable interface from at least one remote equipment to at least one central office equipment". The Examiner believes that Figures 1, 2, 7, and column 6, lines 28-32, of Vidacovich teach such a frame, yet nowhere in the Figures or the cited text does there appear any indication or discussion regarding a cable interface for remote terminal equipment and central office

equipment. Instead, the Examiner arbitrarily states without basis that “[t]he fiber optic infrastructure disclosed by Vidacovich et al. is inherently capable of connecting remote equipment to central office equipment”. Office Action at page 6 (emphasis added).

“Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.”

Continental Can Co. v. Monsanto Co., 948 F.2d 1264, 1269, 20 U.S.P.Q.2d 1746, 1749 (quoting In re Oelrich, 666 F.2d 578, 581, 212 U.S.P.Q. 323, 326 (C.C.P.A. 1981)). “To establish inherency, the extrinsic evidence ‘must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill.’” In re Robertson, 169 F.3d 743, 745, 49 U.S.P.Q.2d 1949, 1951 (Fed. Cir. 1999) (quoting Continental Can Co. v. Monsanto Co., 948 F.2d 1264, 1268, 20 U.S.P.Q.2d 1746, 1749 (Fed. Cir. 1991)). In this rejection, the Examiner points to no evidence and provides no technical reasoning supporting this conclusion of inherency. Since the Examiner has not met her initial burden of setting forth a factual basis for inherency, Applicant respectfully submits that Vidacovich does not anticipate claim 1.

Indeed, because the Examiner points to no particular evidence regarding inherency, Applicant is left with no other conclusion than that the Examiner used Applicant’s own disclosure against him to reject these claims. Moreover, even if such a frame (12) of Vidacovich were to have a cable interface for remote and central office equipment (a contention Applicant does not concede), it would not meet the frame of claim 1 because Vidacovich does not teach “a fiber center distributing frame module having an outside plant portion, an inside plant portion, and an equipment cable port”. The Examiner may believe that Vidacovich has such elements, yet she only puts forth as proof a terse statement deeming “modules (14) [as] having outside portions, inside portions [and] cable ports[50]”. Such a statement, Applicant contends, does not properly address the limitations in claim 1 of “an outside plant portion” and “an inside plant portion” because the term “plant” implies a particular meaning when combined with the terms “inside” or “outside”. In particular, “outside plant” refers to the location of facilities outside the central office, and “inside plant” refers to the location of equipment inside the central office. See generally the Background Section of the Specification. Having left out the crucial term “plant”, the Examiner may have misread the claim or she may not have been familiar with the terminology and therefore erroneously assumed that the limitation involved a contextual perspective with respect to the module itself (i.e., inside the module or outside the module) and not with respect to whether

connected equipment is inside or outside the central office. Regardless, the Examiner has failed to identically show this limitation of claim 1 and moreover, if the Examiner were to have identically shown this limitation (a contention Applicant does not concede) the Examiner has not further identically shown the limitation of an “outside plant portion being proximately located to said inside plant portion”; nor has the Examiner identically shown the limitation of “at least one remote equipment connecting to said outside plant portion and said at least one central office equipment connecting to said outside plant portion through said equipment cable port”; nor has she shown “a plurality of inside mounting positions ... in a designated state ... of: equipped, unequipped and spare”; nor has she shown identically “said connection from said outside plant portion to said inside plant portion is made to any one of said plurality of inside mounting positions which is in said equipped operating state”. For all these reasons, Applicant submits that Vidacovich does not anticipate claim 1. Accordingly, Applicant requests withdrawal of the rejection of claim 1 with respect to Vidacovich under 35 U.S.C. § 102(b).

As for claims 2-5, 7, 9-11, 13, and 14, which depend on claim 1, Applicant submits that these claims are patentable for at least the same reasons given in support of the patentability of claim 1. Accordingly, Applicant requests withdrawal of the rejection of claims 2-5, 7, 9-11, 13, and 14 with respect to Vidacovich under 35 U.S.C. § 102(b).

Claims 1-8 and 14 stand rejected under 35 U.S.C. § 102(e) as being anticipated by United States Patent No. RE 37,489 to Anton et al. (“Anton”). In order for a reference to anticipate a claim, “every element of the claimed invention must be identically shown in a single reference.” In re Bond, 910 F.2d 831, 832, 15 U.S.P.Q.2d 1566, 1567 (Fed. Cir. 1990) (emphasis added). Applicant submits that Anton does not anticipate claim 1 because Anton does not teach “a fiber center distributing frame which forms a cable interface from at least one remote equipment to at least one central office equipment”. The Examiner believes that Figures 1, 4, 8, 9, and 10 teach such a frame yet nowhere in these figures appears any indication regarding a cable interface for remote terminal equipment and central office equipment. Instead, the Examiner arbitrarily states without basis that “[t]he fiber optic infrastructure disclosed by Anton et al. is inherently capable of connecting remote equipment to central office equipment”. Office Action at page 8 (emphasis added). “Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.” Continental Can Co. v. Monsanto Co., 948 F.2d 1264, 1269, 20 U.S.P.Q.2d 1746, 1749 (quoting In re Oelrich, 666

F.2d 578, 581, 212 U.S.P.Q. 323, 326 (C.C.P.A. 1981)). “To establish inherency, the extrinsic evidence ‘must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill.’” In re Robertson, 169 F.3d 743, 745, 49 U.S.P.Q.2d 1949, 1951 (Fed. Cir. 1999) (quoting Continental Can Co. v. Monsanto Co., 948 F.2d 1264, 1268, 20 U.S.P.Q.2d 1746, 1749 (Fed. Cir. 1991)). In this rejection, the Examiner points to no evidence and provides no technical reasoning supporting this conclusion of inherency. Since the Examiner has not met her initial burden of setting forth a factual basis for inherency, Applicant respectfully submits that Anton does not anticipate claim 1.

Indeed, because the Examiner points to no particular evidence regarding inherency, Applicant is left with no other conclusion than that the Examiner used Applicant’s own disclosure against him to reject these claims. Moreover, even if such a frame (10) of Anton were to have a cable interface for remote and central office equipment (a contention Applicant does not concede), it would not meet the frame of claim 1 because Anton does not teach “a fiber center distributing frame module having an outside plant portion, an inside plant portion, and an equipment cable port”. The Examiner may believe that Anton has such elements yet she only puts forth as proof a terse statement deeming “modules (16) [as] having outside portions, inside portions [and] cable ports (88 and 90)”. Such a statement, Applicant contends, does not properly address the limitations in claim 1 of “an outside plant portion” and “an inside plant portion” because, as pointed out earlier the term “plant” implies a particular meaning when combined with the terms “inside” or “outside”. In particular, “outside plant” refers to the location of facilities outside the central office, and “inside plant” refers to the location of equipment inside the central office. See generally the Background Section of the Specification. Having left out the crucial term “plant”, the Examiner may have misread the claim or she may not have been familiar with the terminology and therefore erroneously assumed that the limitation reciting portions involved a contextual perspective with respect to the module itself (i.e., inside the module or outside the module) and not with respect to whether connected equipment is inside or outside the central office. Regardless, the Examiner has failed to identically show this limitation of claim 1 and moreover, if the Examiner were to have identically shown this limitation (a contention Applicant does not concede) the Examiner has not further identically shown the limitation of an “outside plant portion being proximately located to said inside plant portion”; nor has she identically shown the limitation of “at least one remote equipment connecting to said outside plant portion and

said at least one central office equipment connecting to said outside plant portion through said equipment cable port"; nor has she shown "a plurality of inside mounting positions ... in a designated state ... of: equipped, unequipped and spare"; nor has she shown identically "said connection from said outside plant portion to said inside plant portion is made to any one of said plurality of inside mounting positions which is in said equipped operating state". For all these reasons, Applicant submits Anton does not anticipate claim 1. Accordingly, Applicant requests withdrawal of the rejection of claim 1 with respect to Anton under 35 U.S.C. § 102(e).

As for claims 2-8 and 14, which depend on claim 1, Applicant submits that these claims are patentable for at least the same reasons given in support of the patentability of claim 1. Accordingly, Applicant requests withdrawal of the rejection of claims 2-8 and 14 with respect to Anton under 35 U.S.C. § 102(e).

Claims 1-5, 7, 9-11, 13, and 14 stand rejected under 35 U.S.C. § 102(b) as being anticipated by United States Patent No. 4,490,229 to Ghandeharizadeh et al. ("Ghandeharizadeh"). In order for a reference to anticipate a claim, "every element of the claimed invention must be identically shown in a single reference." In re Bond, 910 F.2d 831, 832, 15 USPQ2d 1566, 1567 (Fed. Cir. 1990) (emphasis added). Applicant submits that Ghandeharizadeh does not anticipate claim 1 because Ghandeharizadeh does not show every element in the claim. In particular, Ghandeharizadeh does not teach "a fiber center distributing frame which forms a cable interface from at least one remote equipment to at least one central office equipment". The Examiner believes that Figures 1 and 2 of Ghandeharizadeh teach such a frame yet nowhere in these figures appears any indication regarding a cable interface for remote terminal equipment and central office equipment. Because the Examiner points to no particular evidence, Applicant is left with no other conclusion than that the Examiner used Applicant's own disclosure against him to reject these claims. Moreover, even if such a frame (10) of Ghandeharizadeh were to have a cable interface for remote and central office equipment (a contention Applicant does not concede), it would not meet the frame of claim 1 because Ghandeharizadeh does not teach "a fiber center distributing frame module having an outside plant portion, an inside plant portion, and an equipment cable port". The Examiner may believe that Ghandeharizadeh has such elements but she only puts forth as proof a terse statement deeming "modules (20) ... [as] having an outside portion, an inside portion [and] cable ports". Such a statement, Applicant contends, does not properly address claim 1's limitations of "an outside plant portion" and

“an inside plant portion” because the term “plant” implies a particular meaning when combined with the terms “inside” or “outside”. In particular, “outside plant” refers to the location of facilities outside the central office while “inside plant” refers to the location of equipment inside the central office. See generally the Background Section of the Specification. Having left out the crucial term “plant”, the Examiner may have misread the claim or she may not have been familiar with the terminology and therefore erroneously assumed that the limitation reciting portions involved a contextual perspective with respect to the module itself (i.e., inside the module or outside the module) and not with respect to whether connected equipment is inside or outside the central office. Regardless, the Examiner has failed to identically show this limitation of claim 1 and moreover, if the Examiner were to have identically shown this limitation (a contention Applicant does not concede) the Examiner has not further identically shown the limitation of an “outside plant portion being proximately located to said inside plant portion”; nor has she identically shown the limitation of “at least one remote equipment connecting to said outside plant portion and said at least one central office equipment connecting to said outside plant portion through said equipment cable port”; nor has he shown “a plurality of inside mounting positions ... in a designated state ... of: equipped, unequipped and spare”; nor has she shown identically “said connection from said outside plant portion to said inside plant portion is made to any one of said plurality of inside mounting positions which is in said equipped operating state”. For all these reasons, Applicant submits Ghandeharizadeh does not anticipate claim 1. Accordingly, Applicant requests withdrawal of the rejection of claim 1 with respect to Ghandeharizadeh under 35 U.S.C. § 102(b).

As for claims 2-5, 7, 9-11, 13, and 14, which depend on claim 1, Applicant submits that these claims are patentable for at least the same reasons given in support of the patentability of claim 1. Accordingly, Applicant requests withdrawal of the rejection of claims 2-5, 7, 9-11, 13, and 14 with respect to Ghandeharizadeh under 35 U.S.C. § 102(b).

Claims 6, 8, and 12 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Vidacovich. Because the deficiencies of Vidacovich have not been overcome with respect to claim 1 and because claims 6, 8, and 12 depend upon claim 1, Applicant submits that these claims are patentable for at least the same reasons given in support of the patentability of claim 1.

Claims 9-13 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Anton. Because the deficiencies of Anton have not been overcome with respect to claim

1 and because claims 9-13 depend upon claim 1, Applicant submits that these claims are patentable for at least the same reasons given in support of the patentability of claim 1.

Claim 12 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Ghandeharizadeh. Because the deficiencies of Ghandeharizadeh have not been overcome with respect to claim 1 and because claim 12 depends upon claim 1, Applicant submits that claim 12 is patentable for at least the same reasons given in support of the patentability of claim 1.

Applicant asserts that the present invention is new, non-obvious, and useful. Reconsideration and allowance of claims 1-14 are requested.

Respectfully submitted,

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VERSION WITH MARKINGS TO SHOW CHANGES MADE

1. (Amended) A telecommunications fiber optic infrastructure, comprising:

a fiber center distributing frame which forms a cable interface from at least one remote equipment to at least one central office equipment, said fiber center distributing frame further comprising:

a fiber center distributing frame module having an outside plant portion, an inside plant portion, and an equipment cable port, said at least one remote equipment connecting to said outside plant portion and said at least one central office equipment connecting to said outside plant portion through said equipment cable port, and said outside plant portion being proximately located to said inside plant portion;

said inside plant portion of said fiber center distributing frame module further comprising a plurality of inside mounting positions wherein each one of said plurality of inside mounting positions is in a designated state selected from a group of operating states [consisting of] including: equipped, unequipped and spare; and

wherein said connection from said outside plant portion to said inside plant portion is made to any one of said plurality of inside mounting positions which is in said equipped operating state.